

SEP 26 2006

Application No. 09/872,704

REMARKS

Claims 1-19 and 52-61 are pending. By this Amendment, claims 1 and 11 are amended, claims 20-51 and claims 62-88 are cancelled.

Rejections - 35 USC §112

Claims 11-19 were rejected under 35 USC §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Independently claim 11 has been amended to clarify the language of the claim by replacing "upwardly" with "outwardly". Applicant submits that claim 11 and its dependents are in definite form and requests that the rejection under 35 USC §112 be withdrawn.

Rejections - 35 USC § 102

Claims 1, 2, 4-8, and 10 stand rejected under 35 USC §102(b) as being anticipated by Pecenka (4,517,979). Independent claim 1 has been amended to better clarify the invention. Specifically, claim 1 has been amended to additionally recite that the memory of the material from which the valve is made also causes reclosing of the valve to a fluid-tight configuration after the piercing has occurred and the withdrawal of the relatively rigid member has occurred. This is a feature not recited within Pecenka, rather, Packenka discloses a hinged (36) flap valve (34). The hinge of the flap valve allows the flap to flip open when a cannula is inserted into the valve, upon withdrawal of the cannula the flap flips back down on top of the valve. A flap valve is not completely sealed, the flap does not seal back to the valve body when it closes. However, the present invention creates a sealed valve again upon withdrawal of the rigid member, the memory of the material of the

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valve causes it to close back over the piercing created by the rigid member to present the valve in a completely resealed configuration.

In view of the argument submitted above, applicant submits that independent claim 1 is now in allowable form as are its dependents 2-10 and requests that the rejection under 35 USC §102 be withdrawn.

Rejections – 35 USC §103

Claim 3 stands rejected under 35 USC §103(a) as being unpatentable over Pacenka. In view of the arguments provided above with respect to independent claim 1, applicant submits that claim 3 is in allowable form and requests that the rejection be withdrawn.

Allowable Subject Matter

The Office Action notes that claims 51-61 are allowable over the prior art of record. Claim 9 is noted as being allowable if rewritten to incorporate the limitations of the base claim and any intervening claims. The base claim of claim 9, i.e., independent claim 1, has been amended and, as such, claim 9 has not been rewritten. Claim 11 is noted as allowable if rewritten to overcome the rejection under 35 USC §112, second paragraph. Claim 11 has been amended to address the rejection.

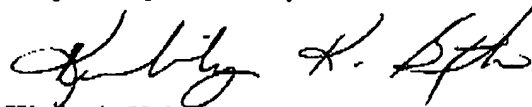
Conclusion

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

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The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Kimberly K. Baxter', is written over a horizontal line.

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